



6-26  
PATENT #3  
#9

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Peter J. BURNS

Serial No.: 09/719,058

Group No.: 3764

Filed: February 7, 2001

Examiner: Michael Brown

For: MOUTHGUARD

Attorney Docket No.: U 013043-1

Commissioner of Patents and Trademarks  
Washington, D.C. 20231

Sir:

**INFORMATION DISCLOSURE STATEMENT**

In accordance with Applicants' duty of disclosure under 37 CFR 1.56 and pursuant to sections 1.97 and 1.98, applicants would like to make of record the citations attached hereto and listed on attached form PTO 1449. These citations have been cited in a counterpart foreign application and a copy of the search report is also attached.

Respectfully submitted,

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NEW YORK, N.Y. 10023

Reg. No. 20302 (212) 708-1887

**CERTIFICATE OF MAILING (37 CFR 1.8a)**

I hereby certify that this paper (along with any paper referred to as being attached or enclosed) is being deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to the: Commissioner of Patents and Trademarks, Washington, D.C. 20231

JULIAN H. COHEN

(Type or print name of person mailing paper)

Date: May 31, 2002

(Signature of person mailing paper)



Attorney's Docket No. U-013043-1

**PATENT  
IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re application of: Peter J. BURNS

Serial No.: 09/719,058

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Assistant Commissioner for Patents  
Washington, DC 20231

**TRANSMITTAL OF INFORMATION DISCLOSURE STATEMENT  
BEFORE MAILING DATE OF EITHER A FINAL ACTION  
OR NOTICE OF ALLOWANCE (37 CFR 1.97 (c))**

**NOTE:** An information disclosure statement shall be considered by the Office if filed . . . before the mailing date of either (1) a final action under § 1.113 or (2) a notice of allowance under § 1.311, whichever occurs first, provided the statement is accompanied by either a certification as specified in paragraph (e) of this section or the fee set forth in § 1.17(p). " 37 CFR 1.97(c).

**NOTE:** "If a final action or notice of allowance is mailed in an application and later withdrawn, the application will be considered as not having had a final action or notice of allowance mailed for purposes of considering an information disclosure statement." Notice of April 20, 1992 (1138 O.G. 37-41, 39).

**NOTE:** "If information submitted during the period set forth in 37 CFR 1.97(c) with a certification is used in a new ground of rejection on unamended claims, the next Office action will not be made final since in this situation it is clear that applicant has submitted the information to the office promptly after it has become known and the information is being submitted prior to a final determination on patentability by the Office. However, the information submitted with a certification can be used in a new ground of rejection and the next Office action made final, if the new ground of rejection was necessitated by amendment of the application by applicant. Where the information is submitted during this period with a fee, the examiner may use the information submitted, e.g., printed publication or evidence of public use, and make the next Office action final whether or not the claims have been amended, provided that no other new ground of rejection which was not necessitated by amendment to the claims is introduced by the examiner. See MPEP 706.07(a). If a new ground of rejection is introduced that is neither necessitated by an amendment to the claims nor based on the information submitted with the fee set forth in 37 CFR 1.17(p), the Office action shall not be made final." Notice of April 20, 1992 (1138 O.G. 37-41, 39).

**CERTIFICATE OF MAILING/TRANSMISSION (37 CFR 1.8a)**

I hereby certify that this correspondence is, on the date shown below, being:

**MAILING**

☒ deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to the Assistant Commissioner for Patents, Washington, DC 20231

**FACSIMILE**

☐ transmitted by facsimile to the Patent and Trademark Office

Signature

JULIAN H. COHEN

Date: May 31, 2002

(type or print name of person certifying)

(Transmittal of Information Disclosure Statement before Mailing Date of Either a Final Action Or Notice of Allowance [6-4]—page 1 of 3)

**WARNING:** "A petition for suspension of action to allow applicant time to submit an information disclosure statement will be denied as failing to present good and sufficient reasons, since 37 CFR 1.97 provides adequate recourse for the timely submission of prior art for consideration by the examiner." Notice of July 6, 1992 (1141 O.G. 63).

### TIME OF TRANSMITTAL OF ACCOMPANYING INFORMATION DISCLOSURE STATEMENT

1. The information disclosure statement transmitted herewith is being filed **after** three months of the filing date of this national application or the date of entry of the national stage as set forth in § 1.491 in an international application or after the mailing date of the first Office action on the merits, whichever event occurred last but **before** the mailing date of either:
- (1) a final action under § 1.113 or
  - (2) a notice of allowance under § 1.311,
- whichever occurs first.

### CERTIFICATION OR FEE

2. Accompanying this transmittal is
- (check either A or B below)

A. ☐ a certification as specified in 37 CFR 1.97(e).

OR

B. ☒ the fee set forth in 37 CFR 1.17(p) for submission of an information disclosure statement under § 1.97(c) (\$180.00)

### FEE PAYMENT

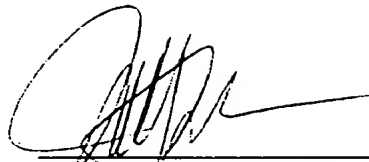
(complete this item, if applicable)

3. Applicant elects the option to pay the fee set forth in 37 CFR 1.17(p) for submission of an information disclosure statement under § 1.97(c) (\$180.00)

Fee due \$ 180.00

### METHOD OF PAYMENT OF FEE

- 4.
- ☒ Attached is a check in the amount of \$ 180.00
  - ☐ Charge Account No. 12-0425 in the amount of \$ \_\_\_\_\_  
A duplicate of this request is attached
- If any additional fees are due, please charge Account 12-0425.



SIGNATURE OF ATTORNEY

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